IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4324 of 2007()

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CMP.2506/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PARAPPANANGADI

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REVN. PETITIONER:

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P.K.MOHAMMED ALI, S/O.ABUBACKER HAJI,
PERUVANKUZHIYIL, P.O.KAKKAD, MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:

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STATE OF KERALA, REPRESENTED BY THE
S.I. OF POLICE, TANUR THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. P. RAVEENDRA BABU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4324 OF 2007

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Dated this the 4th day of December, 2007.

**ORDER**

On 08.10.2007 the Tanur police seized a Mahindra Nissan Mini Lorry bearing Registration No. KL.11/C.563 of which the petitioner claims to be the registered owner. A case was registered as Crime No. 520/2007 of Tanur Police Station for offences punishable under Sections 4(1A) and 21(1) of the Mines and Minerals (Development and Regulation) Act. The seizure of the vehicle was reported to the Judicial First Class Magistrate-II, Parappanangadi and the vehicle was produced before the Sub Divisional Magistrate for eventual confiscation. An application filed by the petitioner before the Magistrate as C.M.P. No. 2506/2007 under Section 457 Cr.P.C was dismissed on 05.11.2007 as not maintainable for the reason that the vehicle was already produced before the Sub Divisional Magistrate.

2. The view taken by the Magistrate that the petition under Section 457 Cr.P.C is not maintainable since the vehicle has not been produced before the Magistrate, is not legally sustainable since Section 457 Cr.P.C contemplates a situation where seizure of the vehicle is only reported and the vehicle is not produced. The property is lying exposed to the ambient weather since 08.10.2007. In the

circumstances, I am inclined to direct interim custody of the vehicle on appropriate conditions. Accordingly, C.M.P. No. 2506/2007 shall be allowed by the Magistrate on the revision petitioner executing a bond for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties and also on furnishing security either in the form of bank guarantee or in the form of immovable property for a sum of Rs.1,50,000/- ( Rupees one lakh and fifty thousand only) to the satisfaction of the Magistrate and subject to the condition that he shall keep the vehicle in the same condition in which it is at the time of release and shall produce the same either before the Sub Divisional Magistrate or before the Judicial First Class Magistrate as and when directed to do so and that he shall not use or allow to be used the said vehicle for the purpose of committing any offence or for the purpose of illicit transport of any contraband article and that, he shall not transfer the vehicle or dismantle the same. An inventory shall also be prepared before releasing the vehicle.

The Crl.R.P is disposed of as above.

**V. RAMKUMAR, JUDGE.**

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